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DEC 10 2007

IAP27

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEES TRANSMITTAL

## For FY 2008

 Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ **770**)
**Complete if Known**

Application Number	10/759,811
Filing Date	JANUARY 16, 2004
First Named Inventor	PATRICK MILES
Examiner Name	JONATHAN WERNER
Art Unit	3732
Attorney Docket No.	039 US1

**METHOD OF PAYMENT** (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: **50-2040** Deposit Account Name: **NUVATIVE, INC.**

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee

Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17  Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

<u>Application Type</u>	<u>FILING FEES</u>		<u>SEARCH FEES</u>		<u>EXAMINATION FEES</u>		<u>Fees Paid (\$)</u>
	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	<u>Fee (\$)</u>	<u>Small Entity</u>	
Utility	310	155	510	255	210	105	_____
Design	210	105	100	50	130	65	_____
Plant	210	105	310	155	160	80	_____
Reissue	310	155	510	255	620	310	_____
Provisional	210	105	0	0	0	0	_____

**2. EXCESS CLAIM FEES**Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Small EntityFee (\$)

50 25

210 105

370 185

Total ClaimsExtra ClaimsFee (\$)Fee Paid (\$)Multiple Dependent ClaimsFee (\$)Fee Paid (\$)

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. ClaimsExtra ClaimsFee (\$)Fee Paid (\$)Multiple Dependent ClaimsFee (\$)Fee Paid (\$)

- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
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- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): PETITION TO REVIVE UNDER 37 CFR 1.137(f)Fees Paid (\$)\$770**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent) <b>58,148</b>	Telephone <b>858-909-1845</b>
Name (Print/Type)	<b>RORY SCHERMERHORN</b>	Date	<b>DECEMBER 5, 2007</b>

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**PATENT**  
Application Serial No. 10/759,811  
Attorney Ref. No. 039US1

DRAFT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Re: Patent Application of )  
Patrick Miles et al. ) Group Art Unit: 3732  
)  
App. Ser. No. 10/759,811 )  
) Examiner: Jonathan Werner  
Filed: January 16, 2004 )  
)  
For: Surgical Access System and )  
Related Methods )

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 5, 2007:

  
Rory Schermerhorn

**TRANSMITTAL LETTER**

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing in the above-referenced application please find the following:

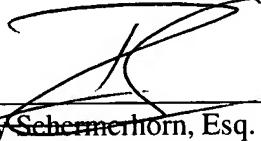
- (1) Petition for Revival of an Application for Failure to Notify the Office of a Foreign or International Filing under 37 CFR 1.137(f) (2 pages);
- (2) Fee Transmittal authorizing the Office to Charge Deposit Account Number 50-2040 the associated Petition Fee of \$770 (1 page & 1 copy);
- (3) Rescission of Prior Non-Publication Request (1 page); and
- (4) Return Postcard.

Although Applicants are filing this Petition according to the Office's standard Form 64a, which speaks of revival, Applicants believe that under the controlling statutory authority of 35 USC Section 122(b)(2)(B)(iii) no revival is necessary, and that a statement that delay in submitting the notice was unintentional is sufficient to prevent abandonment here.

If there are any questions or comments pertaining to this Petition, or anything further regarding this application, the Examiner is invited to call the undersigned counsel. If there are any other fees or credits due as a result of this Petition, the Commissioner is authorized to charge such fees or credit any overpayments to Deposit Account Number 50-2040 in the name of NuVasive, Inc.

Respectfully submitted,

NUVASIVE, INC.

By:   
Rory Schermerhorn, Esq.  
Registration No. 58,148

4545 Towne Centre Court  
San Diego, CA 92121  
Tel.: (858) 909-1845

Date: December 5, 2007